



BRB No. 16-0179 BLA  
Case No. 08-BLA-5114

JANICE FAYE TRUMP )  
(Widow of JESSE WILLARD TRUMP) )

Claimant-Petitioner )

v. )

EASTERN ASSOCIATED COAL )  
CORPORATION )

and )

PEABODY INVESTMENTS, )  
INCORPORATED )

Employer/Carrier- )  
Respondents )

DIRECTOR, OFFICE OF WORKERS' )  
COMPENSATION PROGRAMS, UNITED )  
STATES DEPARTMENT OF LABOR )

Party-in-Interest )

DATE ISSUED: 12/19/2018

ORDER

In its opinion in *Trump v. E. Assoc. Coal Corp.*, No. 17-1293 (4th Cir. June 15, 2018), the United States Court of Appeals for the Fourth Circuit held that the administrative law judge's "conclusions that Dr. Houser did not adequately explain his death-causation opinion, and that the opinion was unduly speculative, [were] not supported by substantial

evidence.”<sup>1</sup> *Trump*, slip op. at 12. Because the Board did not consider the administrative law judge’s other reasons for discrediting Dr. Houser’s opinion, the Fourth Circuit remanded the case to the Board “to review in the first instance the remainder of the administrative law judge’s decision.” *Id.*

In light of the Fourth Circuit’s decision, the Board reactivated this appeal, and requested that the parties<sup>2</sup> file briefs addressing the issues to be decided on remand. *Trump v. E. Assoc. Coal Corp.*, BRB No. 16-0179 BLA (Aug. 29, 2018) (Order) (unpub.).

The Director, Office of Workers’ Compensation Programs (the Director), has filed a Motion to Remand for Payment of Benefits by the Black Lung Disability Trust Fund (the Trust Fund). The Director states that the Trust Fund accepts liability for this claim and does not contest claimant’s entitlement to benefits. The Director requests that this case be dismissed and remanded to the district director for the payment of benefits by the Trust Fund. In view of the above, the Board grants the Director’s motion, dismisses this appeal,

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<sup>1</sup> Dr. Houser opined that pneumoconiosis-induced hypoxemia hastened the miner’s fatal heart attack. Claimant’s Exhibit 7.

<sup>2</sup> The Director, Office of Workers’ Compensation Programs (the Director), previously informed the Board that employer’s parent company, Patriot Coal Corporation, is in bankruptcy. *Trump v. E. Assoc. Coal Corp.*, BRB No. 16-0179 BLA, slip op. at 3 n.4 (Jan. 4, 2017) (unpub.). The Director further informed the Board that, while the case was pending before the administrative law judge, employer’s counsel, Greenberg Traurig, LLP, moved to withdraw. *Id.*

and remands this case to the district director for payment of benefits by the Trust Fund.  
*See* 26 U.S.C. §9501(d)(1)(B); 20 C.F.R. §725.1(c), (e).

BETTY JEAN HALL, Chief  
Administrative Appeals Judge

JUDITH S. BOGGS  
Administrative Appeals Judge

RYAN GILLIGAN  
Administrative Appeals Judge